

Response under 37 C.F.R. 1.116 -  
Expedited Procedure - Examining  
Group Art Unit 2877

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Steinbichler et al.

Examiner: Lyons, Michael A.

Serial No.: 09/996,239

Group Art Unit: 2877

Filed: November 28, 2001

Docket: 298-147

For: PROCESS AND APPARATUS  
FOR RECORDING THE  
DEFORMATION...

Dated: July 19, 2004

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST TO WITHDRAW FINALITY OF OFFICE ACTION**

Sir:

It is respectfully requested finality of the Office Action mailed June 3, 2004 by the Patent and Trademark Office be withdrawn, for the following reasons.

A Decision by the Director of Technology Center 2800 granting the previously-filed Petition to withdraw finality of the previous Office Action mailed December 5, 2003, was appended to the Office Action mailed June 3, 2004. However, the Decision itself is undated, there being no indication this Decision was ever mailed by the Patent and Trademark Office (the office of the undersigned had not previously received this Decision).

**CERTIFICATE OF FACSIMILE**

I hereby certify that this paper is being facsimile transmitted (703)-872-9306 to the Patent and Trademark Office on the date shown below.

July 19, 2004

  
George M. Kaplan

In any event, the Office Action mailed June 3, 2004 explicitly states, in the first paragraph on page 2, that

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn as per the attached decision on the petition filed February 9, 2004 [emphasis added].

However, the Office Action mailed June 3, 2004 is then made final on the exact same grounds as raised in the preceding Office Action mailed December 5, 2003 and which was declared prematurely final. Accordingly, since it has been decided by the Director of Technology Center 2800 that the Office Action mailed December 5, 2003 should be nonfinal, then it is quite clear the present Office Action mailed June 3, 2004 should also be nonfinal since only the exact same grounds of rejection have been raised.

Therefore, withdrawal of finality of the Office Action mailed June 3, 2004 by the Patent and Trademark Office is earnestly solicited. Please contact the undersigned attorney should there be any questions.

Respectfully submitted,

  
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